

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 3/4/2014	(3) CONTACT/PHONE James Caruso, Senior Planner / 805-781-5702	
(4) SUBJECT Request to authorize processing of possible amendments to the Conservation and Open Space, Agriculture and other elements and policies of the County General Plan and various Titles of the County Code, including Title 8 (Health and Sanitation Code), Title 19 (Building and Construction Ordinance), Title 21 (Real Property Division Ordinance), Title 22 (Land Use Ordinance), Title 23 (Coastal Zone Land Use Ordinance) and Title 26 (Growth Management Ordinance) to implement countywide water resource policies and strategies. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board review the proposed amendments to the General Plan and ordinances and determine whether to authorize processing.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent    { } Presentation    { } Hearing (Time Est. ____ )    { <b>X</b> } Board Business (Time Est. <u>90 min</u> )			
(11) EXECUTED DOCUMENTS { } Resolutions    { } Contracts    { } Ordinances    { <b>X</b> } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required    { <b>X</b> } N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A    Date: <u>December 3, 2013</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts -			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / James Caruso, Senior Planner

VIA: Kami Griffin, Assistant Director

DATE: 3/4/2014

SUBJECT: Request to authorize processing of possible amendments to the Conservation and Open Space, Agriculture and other elements and policies of the County General Plan and various Titles of the County Code, including Title 8 (Health and Sanitation Code), Title 19 (Building and Construction Ordinance), Title 21 (Real Property Division Ordinance), Title 22 (Land Use Ordinance), Title 23 (Coastal Zone Land Use Ordinance) and Title 26 (Growth Management Ordinance) to implement countywide water resource policies and strategies. All Districts.

## **RECOMMENDATION**

It is recommended that the Board review the proposed amendments to the General Plan and ordinances and determine whether to authorize processing.

## **DISCUSSION**

### **Background**

When changes to the County General Plan and ordinances are proposed, the first step in the process is for the Board to authorize staff to commence work on the amendments. If your Board authorizes processing of amendments to the various elements and codes, staff will start review of potential revisions, conduct stakeholder outreach and environmental review. The item will then be scheduled for public hearings at the Planning Commission and your Board.

### **County General Plan and Ordinances**

On December 3, 2013, your Board directed staff to return in early 2014 for authorization of general plan and ordinance amendments to implement countywide water resource policies of the Conservation and Open Space Element (COSE) of the general plan. Your Board requested that staff prepare a comprehensive analysis of the potential policy and ordinance amendments addressed in the COSE and bring that full discussion and analysis to your Board. In addition, your Board directed staff to investigate other measures to address water conservation including: use of Transfer of Development Credits (TDCs) and creation of two Agriculture zones or Land Use Categories. All of these potential policy and ordinance amendments and other measures are discussed in this report and summarized in a table (Attachment 1). On December 3, 2013, your Board also gave direction to establish a no-water-export ordinance. This is being carried out based on the input provided to the Public Works Department by your Board on January 28, 2014.

The COSE and other elements of the County General Plan will need to be studied for possible revisions. All elements of the general plan must be "internally consistent" so that no conflicting policies appear in different elements. Other elements such as the Land Use Element will require some level of revisions so that they remain consistent with any changes adopted in the COSE and/or Agriculture Element.

In addition to the possible general plan element revisions, various county ordinances contained in the County Code may also be subject to revisions. Potential revisions to these ordinances include Title 8 (wells and metering), Title 19 (Building and Construction), Title 21 (Real Property Division Ordinance), Title 22 (Land Use Element), Title 23 (Coastal Zone Land Use Ordinance), and Title 26 (Growth Management Ordinance). The following is a general description of these elements and ordinances and how they intersect with water resources.

## **I. General Plan Elements**

### *Conservation and Open Space Element*

The Conservation and Open Space Element (COSE) is one of the elements of the County General Plan (Conservation and Open Space combines two of the required seven elements of every local jurisdiction's general plan) and was adopted after a four-year process in May 2010.

One of the ten chapters of the element addresses water resources. The chapter contains goals, policies and implementation strategies to employ those policies in ordinances and decision making processes.

### *Agriculture Element*

The Agriculture Element contains goals and policies to address agricultural issues such as agricultural land protection, water availability and conversion of agricultural lands to other uses. Each policy includes an implementation strategy along with a discussion of the policy and its intent.

### *Land Use and Circulation Element*

In the inland areas, the Land Use and Circulation Element includes the Framework for Planning (Part I), four area plans (Part II), community and village plans (Part III), and the official maps (Part IV). The element also contains land use policies, purpose and character statements describing the various land use categories (e.g. Agriculture, Rural Lands) and implementation programs. The Resource Management System (RMS) that addresses such resources as water supply is included in the Framework for Planning (Chapter 3). The Local Coastal Program contains the Coastal Plan Policies, Coastal Framework for Planning, four area plans and the official maps.

### *Other Elements of the General Plan*

The other elements of the general plan include mandatory elements such as Safety, Housing, and Noise along with optional elements such as Offshore Energy, Parks and Recreation and Economic. The policies and programs of these elements will be reviewed and revised as needed to ensure that internal consistency is maintained among all general plan elements as a result of changes to the preceding elements.

## **II. County Codes**

### *Title 8 (Health and Sanitation)*

This Title contains retrofit-on-sale requirements and the standards for well permits and well construction. Any revisions or additions to retrofit-on-sale requirements in County jurisdiction will be part of Title 8. The Public Health Department's Division of Environmental Health is currently working on new well standards that include installation, monitoring and reporting of water use.

### *Title 19 (Building and Construction Ordinance)*

Title 19, the Building and Construction Ordinance, contains all of the buildings standards for new or expanded dwellings, businesses and waste disposal systems. Potential changes to construction requirements such as retrofit-to-build would be part of this Title. Special water requirements in Los Osos and Nipomo are part of Title 19, as every dwelling constructed in the area is subject to building code requirements.

*Title 21 (Real Property Division Ordinance)*

Title 21 regulates the subdivision of land along with the State Subdivision Map Act. Issues such as provision of services (water and sewer), parcel design and voluntary merger are part of Title 21.

*Titles 22 and 23 (Land Use Ordinance and Coastal Zone Land Use Ordinance)*

These two titles contain a majority of the land use regulations in the County jurisdiction. As Title 22 addresses the inland area and Title 23 addresses the coastal zone, there are differences in how each title approaches water issues. Regulatory requirements for land uses, minimum lot sizes, extension of services and new development water requirements are part of these titles.

*Title 26 (Growth Management Ordinance)*

Title 26 establishes an annual rate of growth in the unincorporated jurisdiction. Some communities have a community growth rate such as Nipomo and Cambria; otherwise, the annual growth rate is calculated countywide. Other urban and rural areas could be addressed with separate growth rates in Title 26 based on available resources.

Potential Policy and Ordinance Amendments

The following are implementation strategies that address water resource goals and policies of the COSE.

**1. Protecting Agricultural Water Supplies (Implementing Strategy 1.7.1 – Water Resources Chapter – Conservation and Open Space Element)**

One of the most apparent results of the current crisis in the Paso Robles Groundwater Basin is the dropping groundwater level's effects on rural residential property owners. Recent testimony at public hearings indicates that these owners may not have the same resources available to drill deeper, larger wells as the agricultural (primarily vineyard) industry does. The rural area contains several large antiquated subdivisions of smaller lots, all with individual wells and septic systems. These areas were subdivided chiefly in the 1920's and first saw substantial development pressure in the 1990's and then again in the early to mid-2000's.

Competition and conflict between rural residential and agricultural water users in the basin can be addressed through lower development rates in the rural area, larger minimum parcel sizes for new subdivisions and merger of substandard-sized parcels.

**a. Amend Title 26 (GMO)**

The current Growth Management Ordinance (GMO) establishes limits on issuance of building permits for new dwellings throughout the unincorporated jurisdiction. This includes the rural area and all of the urban areas (i.e. unincorporated communities); although a few urban areas have their own growth rates (e.g. Nipomo and Cambria).

Possible amendments to the GMO would identify several alternatives to reduce rural residential/agricultural water (and other) conflicts, with an emphasis on including incentives to accomplish this. Alternatives include removing or relaxing growth management from the urban areas and establishing growth management areas in the rural area based on resource constraints as described below.

**i. Rural Areas**

Under one approach, building permits for residential development located within the rural area of groundwater basins, whether in the Agriculture, Rural Lands or Residential Rural land use categories, would be subject to annual limits based on resource constraints, for example, whether the groundwater basin is in Level of Severity (LOS) I, II or III. This alternative would seek to minimize water conflicts within agricultural areas near adjacent rural residential users and to maintain larger, more agriculturally productive parcels. As is currently the case, the Board would continue to set building permit allocations for new dwelling units within rural areas, but at a rate that acknowledges resource constraints.

The establishment of growth limits in the GMO for rural areas lacking resources may better address water conflicts than other alternatives such as no-new-net-water-demand requirements. Allowing continued development of small lots, even with no net increase in water demand, would subject this additional new development to continuing and worsening groundwater issues. A lesser amount of development in these areas may provide better protection of agricultural resources and would avoid increasing the numbers of properties subject to falling groundwater levels and other water issues.

ii. Urban areas

Under this alternative, unincorporated urban areas (and possibly some village areas) would not be subject to the GMO. Instead, water providers (such as the Community Services Districts) would be responsible for metering development consistent with the availability of resources. Urban areas identified as LOS III for water supply or other essential resources in the RMS could retain GMO limits as they currently are established.

**b. Amend Titles 22 and 23 (LUO/CZLUO): require larger minimum parcel sizes**

This strategy would amend the Land Use Ordinance (LUO) and the Coastal Zone Land Use Ordinance (CZLUO) to increase minimum parcel sizes for any new land division in the rural areas of the county, including the Agriculture, Rural Lands and Residential Rural land use categories. In the 1990 Phase 1 Rural Settlement Study, it was estimated that there were over 8,000 undeveloped parcels within the Agriculture, Rural Lands and Residential Rural categories.

An increase in the minimum lot size for any new rural area subdivision would decrease the amount of new development pressure on limited water resources in constrained groundwater basins. Competition for limited water between residential and agricultural uses would be reduced.

An alternative to larger minimum parcel sizes is the use of a Transfer of Development Credit (TDC) program described in item 2b. below. A TDC program incentivizing land owners to maintain larger parcel sizes through transferring their development credits to lots outside of the basin or to areas where there are no resource constraints. This can reduce water conflicts from competing land uses within groundwater basins and support commercially viable agricultural parcels. Opportunities to further incentivize the transfer of development credits from productive agriculture and rural land use areas to existing urban areas with available and verifiable water supplies under County jurisdiction could be considered. Examples of such incentives include: voluntary consolidation of smaller parcels by a single land owner (see item c. below), continuation of existing farm leases (i.e. Williamson Act contracts) and intensification of production opportunities where local area resources will support the increased agricultural activity.

**c. Amend Titles 21, 22 and 23: merger of parcels**

As previously mentioned, a number of antiquated, non-conforming subdivisions currently exist throughout rural areas of the county. These non-conforming parcels are often located among large, commercial agricultural or grazing areas. Currently, the State Subdivision Map Act and the County Real Property Development Ordinance (Title 21) allow for voluntary merger of contiguous parcels under single ownership.

In order to minimize increased competition and pressure on groundwater basins in the rural areas, possible amendments to both Title 21 and the LUO would allow the County to establish an "involuntary" merger process consistent with the requirements of the State Subdivision Map Act. These provisions would allow the County to identify and merge contiguous, antiquated subdivided parcels under a single ownership. The law mandates that, in order to pursue an involuntary merger, the County must first adopt an ordinance that requires notification of property owners and an opportunity to oppose the merger at a public

hearing. The intent of these amendments would be to maintain larger agricultural parcels or larger residential parcels, while at the same reducing competition for water and other resources in groundwater basins designated at a LOS III.

The involuntary merger process is difficult and ultimately may not successfully merge substandard parcels due to its complex administrative procedure. However, smaller parcels tend to fare poorly in groundwater-short areas (as is seen in the Paso Robles Groundwater Basin) and facilitating the merger of such parcels might be an important measure to address rural land use/water conflicts.

## **2. Additional Board Direction to Protect Agricultural Water Supplies**

### **a. Amend LUE/Agriculture Element: two Agriculture Land Use Categories**

On December 3, 2013, your Board expressed interest in researching the feasibility of creating two Agriculture zones or Land Use Categories, one for irrigated and the other for non-irrigated uses. The purpose of creating two Agriculture categories would be to better define the range of agricultural land uses that are more water intensive. By doing so, water intensive agricultural uses might be focused in areas most suitable for irrigation, thereby conserving groundwater resources and helping to ensure the future viability of the agricultural industry.

The County General Plan describes the Agriculture land use category in the Framework for Planning of the Land Use Element (LUE) both Coastal and Inland. It also describes agricultural land use designations in the Agriculture Element. The Coastal LUE categorizes agricultural land uses in coastal areas of the county based on “prime” and “non-prime” soil capability classes of the U.S. Department of Agriculture, Natural Resources Conservation Services (NRCS).

The purpose of both the Coastal and Inland LUE categories is to identify and protect parcels with soil types that support commercial agriculture where viability, siting and natural resources allow. Separately, the Agriculture Element specifically outlines two main categories of agricultural land uses, irrigated lands and dry farm lands, which are further defined by sub-categories. Irrigated lands are sub-categorized as “row crop terrain and soils” and “specialty crops and forage lands.” Dry farm lands are sub-categorized as “mixed croplands,” “dry croplands” and “rangelands for grazing.”

Currently, the LUO has only one Land Use Category, Agriculture, to encompass all agricultural land uses. Alternatives for developing two agriculture categories are presented below. It should be noted that using only one Land Use Category or zone for all agricultural activities is typical of many county and city land use zoning ordinances throughout the country.

- i. One alternative for amending the current LUO would be to use the two classifications of agricultural land outlined in the Agriculture Element - irrigated lands and dry farm lands. These two classifications could define agricultural land based upon the well-established Natural Resources Conservation Service (NRCS) soils capability classes used in the Coastal LUE. The NRCS classifies farmland based upon the limitations of soil classes and the availability of water for irrigation. Mapping of the new irrigated and dry farm lands categories could take into account potential impacts on or availability of water resources within groundwater basins with a Level of Severity (LOS), as well as current agricultural uses and irrigation.

One way to address the new Agriculture category resulting in limitations on irrigation in certain areas would be the Water Use Transaction Program currently being developed by the Upper Salinas-Las Tablas Resource Conservation District. This program could provide parcels designated as dry farm agriculture the opportunity to offset proposed irrigation if an owner wished to irrigate those lands. It is also possible that parcels

designated as irrigated lands could become dry farm lands through the Water Use Transaction Program.

- ii. Another alternative for amending the current LUO would be to model examples of agriculture land use zones already established in other jurisdictions. Examples of more than one agriculture zone are not prevalent; however, there is an example in Yolo County. Yolo County is located within the Central Valley, west of Sacramento, and is a predominantly agricultural county. In order to better define the agricultural land uses throughout Yolo County, agricultural uses are divided into five separate land use zones, including:

- Agricultural Intensive (A-N),
- Agricultural Extensive (A-X),
- Agricultural Commercial (A-C),
- Agricultural Industrial (A-I), and
- Agricultural Residential (A-R).

Both the “Agricultural Intensive (A-N)” and “Agricultural Extensive (A-X)” land use zones are the most relevant to this discussion and could be explored further to provide a rough framework to define new agriculture categories. Yolo County defines “Agricultural Intensive (A-N)” land uses to:

*“...preserve lands best suited for intensive agricultural uses typically dependent on higher quality soils, water availability, and relatively flat topography. The purpose of the zone is to promote those uses, while preventing the encroachment of nonagricultural uses. Uses in the A-N Zone are primarily limited to intensive agricultural production and other activities compatible with agricultural uses. This includes allowing agriculturally-related support uses, excluding incompatible uses, and protecting the viability of the family farm. Minimum lot size for newly created parcels(1) in the A-N Zone is 40 acres for irrigated parcels primarily planted in permanent crops, such as orchards or vineyards; 80 acres for irrigated parcels that are cultivated; 160 acres for parcels that are generally uncultivated and/or not irrigated.”*

The “Agricultural Extensive (A-X)” zone is applied to land uses that:

*“...protect and preserve lands that are typically less dependent on high soil quality and available water for irrigation. Such lands require considerably larger parcel sizes to allow extensive agricultural activities such as livestock and ranching operations, and dry land farming. These lands may also be used for open space functions that are often connected with foothill and wetlands locations, such as grazing and pasture land, and wildlife habitat and recreational areas. Minimum lot size for newly created parcels in the A-X Zone is 160 acres for dry land farming and 320 acres for rangeland.”*

Yolo County applies agriculture related land use designations to parcels based upon a combination of soil type, water availability and crop characteristics. The “Agriculture Intensive (A-N)” zone is applied to parcels that are typically designated as prime farmland by NRCS classifications. The “Agriculture Extensive (A-X)” zone is applied to non-prime soils that are generally not irrigated and are mainly used for grazing, rangeland, dry farming or open space use.

Either of the preceding alternatives would involve the major and significant tasks of assigning allowable uses to two new Agriculture land use categories and deciding what, if any land use limitations or standards would apply in each category. In addition, creation of two new Agriculture Land Use Categories in the LUE and LUO would involve extensive rezoning (general plan amendment) countywide. Parcels currently designated as Agriculture on the LUE official maps total 1,397,000 gross acres. Amendments to the Coastal and Inland LUE,

Agriculture Element and LUO, as well as the official maps, would require a significant amount of time. Public outreach and hearings would be required to ensure adequate public input in the process. It is expected that creating two separate Agriculture land use categories could require extensive environmental review, and possibly the preparation of an Environmental Impact Report.

**b. Amend TDC ordinance**

On December 3, 2013, your Board expressed an interest in revisiting the Transfer of Development Credits (TDC) provisions of the LUO to address water conservation. The TDC section of the LUO outlines the County processes and procedures for transferring development potential from one parcel of land to another. Parcels or areas that are proposed to reduce or retire development potential of a site(s) are called “sending sites.” Parcels or areas that are proposed to increase the development potential of a site(s) are called “receiving sites.” Property owners that elect to reduce the development potential of a site(s) are given full or partial credits based on a given proposal. The awarded development credits can then be sold and transferred at market value to a receiving site. The TDC framework allows for the voluntary, market-driven transfer of development potential of parcels whereby willing buyers and sellers can choose to protect a significant resource such as agricultural or grazing lands.

A TDC ordinance amendment could consider a framework to facilitate voluntary, market-driven transfers within a groundwater basin designated LOS III, for example. The amended TDC ordinance could allow for the transfer development from areas of constrained water resources to areas that are not constrained.

An amendment to the TDC ordinance could also consider mandatory transfers when development is proposed that represents new groundwater demand. For example, new development on antiquated subdivision lots could be required to transfer the development credits of other vacant parcels in the groundwater basin to the lot being developed. As an alternative, new development on antiquated subdivision lots could also be addressed through such programs as merger and growth management as discussed earlier.

**3. Amend Agriculture Element: various policies**

Of the numerous users of a groundwater basin, urban users constitute a major water user in some areas (e.g. Atascadero sub-basin) while in others, agricultural users are the major users of a groundwater basin (e.g. Paso Robles basin). Major water users have a significant effect on lowering groundwater levels. Ensuring that sustainable water supplies are maintained will need to reflect an area’s major water users.

Amendments to various Agriculture Element policies would be based largely upon your Board’s direction to staff on items outlined above to ensure internal consistency is maintained between all elements of the general plan. Additional consideration could be given to Agriculture Element policies that address water conservation and groundwater supplies to protect water resources in a long-term sustainable and equitable manner.

Agriculture Policy (AGP) 15 addresses continued use of the TDC program to direct development away from agricultural operations and to ensure protection of agricultural resources. As outlined in item 2b. above, possible amendments to the existing TDC section of the LUO involve expanding the current TDC framework to allow for the voluntary transfer of development from areas of water resource constraints to areas that contain adequate resources for development.

Consideration also needs to be given to AGP 21, which establishes minimum parcel size criteria for the division of agricultural land. As outlined in item 1b. above, amendments to Title 22 and Title 23 would involve increasing the minimum parcel sizes for land divisions in the Agriculture, Rural Lands and Residential Rural land use categories.



Additional policies regarding water conservation (AGP10) could be analyzed to determine the feasibility for major land uses to conserve water in groundwater basins designated LOS III. Similar to the Winery Water Conservation BMPs established as an attachment to the Resource Capacity Study in July 2010, additional rural area BMPs could be developed to ensure effective water conservation measures are used by all major land uses in rural areas. Irrigation efficiency analyses could also be required on a limited-term basis, rather than just encouraged.

Other possible amendments to the Agriculture Element could address groundwater supplies (AGP11) in groundwater basins designated LOS III, for example. Balancing long-term overdraft and including water neutral development strategies in LOS III groundwater basins could allow for adequate recharge and continued availability of groundwater resources for all major basin users.

**4. Water Supply Assessments (Implementing Strategy 1.12.2 – Water Resources Chapter – Conservation and Open Space Element)**

The COSE includes a policy and an implementation strategy to require Water Supply Assessments (WSA) for all new divisions of land. A WSA should:

*Determine whether the total projected water supplies for the project during the next 20 years will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural uses.*

Implementation of WSA's will require changes to Title 22 and to Title 23 if the revisions extend into the Coastal Zone. Title 21, the Real Property Division Ordinance, could also be amended to clarify that WSA's are part of a land division application process. An aim of a WSA is to evaluate water resources available to new development prior to land division approval.

**5. Improve Well Permit Data (Implementing Strategy 2.2.2 – Water Resources Chapter – Conservation and Open Space Element) and**

**6. Groundwater Data Collection (Implementing Strategy 2.2.4 – Water Resources Chapter – Conservation and Open Space Element)**

These two administrative requirements are important when looking at how to successfully manage water resources. They are both directed at improving data gathering, management and use of that data. Well permit improvement strategies are aimed at each new individual well. Installation of meters can be required, as well as recording useful information such as location, depth, yield, use, flow direction, and water levels.

The Environmental Health Division proposes to make improvements to the Well Permit Application to include necessary reviews by other County Departments and strengthen the application so that important information is included on the application (such as "Is the water well intended to replace an existing well that now has inadequate production?", etc.). An amendment to Title 8 of the County code is required to change well permit information.

Improvements in groundwater data collection can also be addressed in Title 8. Currently, the Flood Control and Water Conservation District sends data requests every July to approximately 30 water providers. The response rate varies from year to year so there can be significant gaps in water use data.

A substantial update/revision of the County's Well Construction Ordinance (Title 8, Chapter 8.40) has been undertaken by Environmental Health and will be going to the Board of Supervisors for approval this year. Highlights of the update include:

- a. Mandatory water quality testing for all new drinking water and agricultural wells;
- b. Mandatory installation of water meters for all new drinking water and agricultural wells (i.e., irrigation & livestock wells);

- c. Meters for all small public water systems (15 connections or more);
- d. In conjunction with water meter installation, require owners of new drinking water and agricultural wells and small public water systems to record water use for review by the County for groundwater management reports and studies;
- e. Expand the County's ability to access new key wells for long-term monitoring in order to better manage groundwater resources countywide (e.g., enrollment in the Public Works Department Well Measurement Program).

**7. Identify Per Capita Water Use Baselines, Using Sub-regional or Community Data Where Available (Implementing Strategy 4.1.1 – Water Resources Chapter – Conservation and Open Space Element)**

The Resource Management System (RMS) Biennial Report has included community use where it is reported by water providers. The 2010-2012 report used data from water providers' Urban Water Management Plans (UWMP) to derive per capita water use. Where no UWMP was available, staff calculated per capita water use based on the best available information. The Department will continue to track community water use and will report findings in future Biennial Reports.

**8. Countywide Water Conservation Ordinance (Implementing Strategy 4.1.2 – Water Resources Chapter – Conservation and Open Space Element)**

This strategy includes a broad range of potential actions. These actions range from outdoor water use restrictions to water waste ordinances to retrofitting existing development through retrofit-on-sale programs and adoption of water neutral development standards. Some of these potential actions could be best implemented in groundwater basins based on the RMS Level of Severity (LOS) while others (e.g. outdoor water use) could be countywide standards.

**a. Amend Titles 22, 23 for new landscape requirements (LID)**

Outdoor water use represents up to 65% of total potable water use in some areas of the county. According to the California Department of Water Resources, water demand is determined chiefly by rate structure and climate. The hotter, drier areas of the county will generally see outdoor water use percentages over 60% (as compared to indoor water use) while the coastal areas that have cooler, wetter climates (and smaller lot sizes) use as little as 30% of total potable water use outdoors.

Rate structure has a lot to do with water demand, especially the heavy outdoor use of water. In areas with water systems that use a conservation- oriented tiered rate structure, outdoor use is usually lower than areas without these rate structures. Rural area development dependent on individual wells does not have a rate structure to control demand. This can lead to difficulty in lowering water demand, especially outdoor use. Such areas do not have incentives to use low water-using landscaping that are backed up by a steep rate structure so that the more water used, the more expensive each unit of water becomes.

New landscape requirements can be placed on new development in all areas of the county. Landscaping standards that limit high water-using landscaping and turf grass on all residential and commercial development could occur through amendment to Titles 22 and 23.

**b. Retrofit-on-sale (Title 8)**

Plumbing retrofit programs implemented at the time of sale of a property have been a standard water conservation measure since the 1980s. Efficiency standards for plumbing fixtures became increasingly tighter in 1980, 1994 and in 2013. Plumbing retrofits can be considered the "low hanging fruit" of water conservation programs because they have been so widely used and can save water. However, successful retrofit programs are often based on the age of the housing stock subjected to the requirement. An area with a relatively new housing stock such as the Nipomo Mesa, where about 75% of the housing has been

constructed since 1994, does not offer great opportunities for retrofitting, as most of the development is already fairly water efficient. The removal of 1.6 gallon per flush (gpf) toilets saves a small amount of water if they are replaced with the new standard 1.28 gpf toilets ( $1.6 - 1.28 = 0.32$  gallons per flush). At the most, this might reflect a savings of 3-4 gallons per day out of a total of perhaps 110 gallons per day of indoor water demand.

Retrofitting new development (built after 2012) would require using even more efficient toilets (e.g. 0.8 gpf) to save an appreciable amount of water. These toilets are more expensive than other standard models and would drive up the cost of “retrofitted” water.

Plumbing retrofits are most appropriate in areas with an older housing stock (pre 1994). Amendments to Title 8 for a retrofit-on-sale program should focus on this housing stock.

**c. Metering and monitoring of all new wells (Title 8)**

The Public Health Department’s Division of Environmental Health is working on changes to Title 8. These changes will require installation of meters, monitoring of the meter readings and reporting of the recorded water demand (see 5 and 6).

**d. Water waste ordinance (Title 8)**

A number of cities and counties across California have adopted and implemented permanent water-waste ordinances in order to minimize the excessive use of water. Water-waste restrictions have provided numerous options to local jurisdictions to better address their current water supply conditions. These water-waste ordinances have also provided local jurisdictions with defined measures of enforcement for users who choose to waste water.

Water-waste ordinances mainly address behavioral measures to improve water conservation in times of drought. Measures include limiting irrigation times for landscaping, prohibiting the washing of hard or paved surfaces, and controlling excessive runoff, among others. Enforcement of water-waste is normally handled through the issuance of fines or one-time rate increases. Some local jurisdictions have adopted these water-waste ordinances on a permanent basis, whether drought conditions persist or not.

In considering a water-waste ordinance, a number of issues applicable to rural areas of the county will need to be addressed. Most water-waste ordinances have been implemented within urban areas that have existing water rate structures. When water-waste ordinances are enacted, water rate structures act as a natural incentive for users to conserve water; conserving water equals monthly rate savings. However, trying to apply water-waste standards to rural areas and agriculture that do not have a water rate structure may not have the same impact on water conservation efforts as in urban areas. Consideration should also be given as to how the County would enforce any adopted water-waste restrictions given the geographic extent of the rural areas and limited staff resources.

**e. Water neutral new development (Titles 21, 22 and 23; Agriculture Element, Conservation and Open Space Element, Land Use Element, Housing Element)**

Currently, new development is subject to a range of special water supply requirements. For example, in Los Osos there are retrofit-to-build and retrofit-on-sale ordinances implemented by the County as part of the land use and construction permit processes. In the Nipomo Mesa Water Conservation Area, building permits applications are subject to special fees required to help fund water conservation programs and new land divisions (within the urban area) are subject to a fee to help fund the supplemental water project. New discretionary development in the Paso Robles Groundwater Basin is subject to a 2:1 offset standard and the Urgency Ordinance requires both agricultural and other development be water neutral.

These three areas mentioned above share some characteristics that should be noted:

- Water supply is at a certified Level of Severity III (LOS III) in the County's Resource Management System.
- Resource Capacity Studies (the vehicle to establish a LOS III) were prepared for these areas between 2004 and 2010.
- There are multiple water providers along with private well users.
- There is a substantial water use by the residential population, as well as agriculture and rural uses.
- The three areas rely chiefly or solely on groundwater.

As described above, water issues in various areas of the county have been addressed in different ways. The urgency ordinance in the Paso Robles Groundwater Basin and the Title 19 requirements in Los Osos require new development to be water neutral. In the Nipomo Mesa area, funding of water conservation measures is required of new development in lieu of water neutral requirements.

There is some evidence that other areas of the unincorporated county have recently experienced water problems. These areas include the Arroyo Grande Fringe, Los Berros and lands west of Paso Robles. It appears that all of these cases are in areas of fractured rock, not groundwater basins. Additionally, there are no special water supply standards or requirements in these areas.

Notwithstanding the three areas subject to Resource Capacity Studies, development in the unincorporated areas has not been subject to substantial water availability analyses. The area included in the Edna Valley Groundwater Basin has seen substantial residential, agricultural, institutional and industrial water demand. However, no water supply work has been contemplated for this area. This area may warrant the preparation of a Resource Capacity Study.

The ordinances could be amended to have a single method of guaranteeing new development stays water neutral for those areas that have been designated as LOS III for groundwater basins. One of the existing methods could be chosen and applied across to all three areas. The existing standards could remain in effect, with a new standard being developed for the remainder of the county. A 1:1 or 2:1 offset could be required, however, as the stock of pre 1994 housing stock diminishes, it will become harder to find the necessary retrofitting opportunities to offset new water use.

#### CEQA Considerations

Some of the actions considered above may require the preparation of more extensive environmental review. For example, changes to the growth management limits in the Growth Management Ordinance (GMO) may require more significant environmental review pursuant to the California Environmental Quality Act (CEQA). An Environmental Impact Report (EIR) has been prepared in the past for significant changes to the GMO. Other potential actions may also require more extensive CEQA review, such as revisions to the Agriculture Element, creation of two new agriculture categories and revisions to the TDC ordinance. On the other hand, some potential actions may be exempt from CEQA, such as metering of wells, improved groundwater data, water use assessments and development of community data.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

If the amendments are authorized for processing, staff will contact and consult with the Public Works Department, Environmental Health, the Agricultural Commissioner's Office, water providers and other interested organizations and agencies.

## **FINANCIAL CONSIDERATIONS**

Some of the potential actions identified in this staff report may require minimal environmental review, such as use of CEQA exemptions. Other actions, such as revisions to the Agriculture Element, creation of two agriculture categories and revisions to the TDC ordinance, may require more extensive CEQA analysis that may include preparation of an EIR. An effort to create two agriculture zones could involve substantial staff time due to the complexity and likely controversy that would be generated by such a proposal, including the likelihood of widespread rezoning of agricultural land throughout the county. Depending on which amendments your Board authorizes for processing, it may be necessary to request additional funding for completion of CEQA review. Other amendments can be completed using the current Department budget.

## **RESULTS**

Authorization of these ordinance amendments will result in review and possible revisions to various elements of the County General Plan and various Titles of the County Code to implement Conservation and Open Space Element water resource policies and other measures discussed in this report.

## **ATTACHMENTS**

Exhibit A - Amendment Options - Conservation and Open Space Element – Implementation Strategies